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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,236	07/12/2004	Thomas Beckert	253871US0PCT	3554
	7590 01/08/200 <b>AK. MCCLELLAND</b> 1	MAIER & NEUSTADT, P.C.	EXAMINER	
1940 DUKE ST			SHEIKH, HUMERA N	
ALEXANDRIA	A, VA 22314		ART UNIT PAPER NUMBER	
			1615	
			NOTIFICATION DATE	DELIVERY MODE
			01/08/2009	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com oblonpat@oblon.com jgardner@oblon.com

	Application No.	Applicant(s)				
Office Action Commons	10/501,236	BECKERT ET AL.				
Office Action Summary	Examiner	Art Unit				
	Humera N. Sheikh	1615				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence ad	ldress			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	<b>J.</b> nely filed the mailing date of this co D (35 U.S.C. § 133).				
Status						
1)⊠ Responsive to communication(s) filed on <u>01 Oc</u>	ctober 2008.					
· <u> </u>	action is non-final.					
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits in						
closed in accordance with the practice under E.	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)⊠ Claim(s) <u>1-12 and 17</u> is/are pending in the appl	lication.					
,	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-12 and 17</u> are subject to restriction a	and/or election requirement.					
Application Papers	·					
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
	animer. Note the attached Office	Action of formal a	0-102.			
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)	-(d) or (f).				
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents						
	2. Certified copies of the priority documents have been received in Application No					
3. Copies of the certified copies of the priori	•	d in this National	Stage			
	application from the International Bureau (PCT Rule 17.2(a)).					
* See the attached detailed Office action for a list of	* See the attached detailed Office action for a list of the certified copies not received.					
Attachment(s)	A) 🗖 1	/DTO 440)				
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) ∐ Interview Summary Paper No(s)/Mail Da					
3) Information Disclosure Statement(s) (PTO/SB/08)	5) Notice of Informal P					
Paper No(s)/Mail Date	6) [ Other:					

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Status of the Application

Receipt of the Response after Non-Final Office Action, the Amendment and Applicant's

Arguments/Remarks, all filed 10/01/08 is acknowledged.

In view of the newly submitted claim (claim 17), the following Restriction/Election is

being required.

Claims 1-12 and 17 are pending in this action. Claims 1-12 and 17 are subject to an

Election/Restriction requirement.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not

so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a

single invention to which the claims must be restricted.

Group I, claim(s) 1-12, drawn to a pharmaceutical formulation.

Group II, claim(s) 17, drawn to a pharmaceutical formulation.

The inventions listed as Groups I-II do not relate to a single general inventive concept

under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special

technical features for the following reasons: The special technical feature that is lacking in the

Group II invention is the following: Group II does not require: (1) the intermediate layer of

Group I which comprises 40 to 100% by weight free-radical polymerized units of C1 to C4 alkyl

esters of acrylic or methacrylic acid; (2) does not require the specific binder (vinylpyrrolidone vinyl acetate copolymer) of the Group I invention; (3) does not require that the outer envelope be a capsule and (4) does not require a multiparticulate form having at least two different types of pellets as is claimed in the Group I invention.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604.

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The examiner can normally be reached on Monday, Tuesday, Thursday and Friday during

regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for

the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Humera N. Sheikh/

Primary Examiner, Art Unit 1615

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January 05, 2009

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